

IN THE UNITED STATES DISTRICT
COURT EASTERN DISTRICT OF
WISCONSIN

The ESTATE OF SYLVILLE K. SMITH, by)	
Personal Representative Mildred Haynes,)	No. 17-cv-862
Patrick Smith, and Mildred Haynes, on her)	
own behalf,)	
)	
Plaintiffs,)	JURY TRIAL DEMANDED
)	
v.)	
)	
CITY OF MILWAUKEE, WISCONSIN)	
and DOMINIQUE HEAGGAN-BROWN,)	
)	
Defendants.)	

EXHIBIT 12

Fmr. Police Chief Edward Flynn Deposition Transcript

David B. Owens
Danielle Hamilton
LOEVY & LOEVY
311 N. Aberdeen St, Third FL
Chicago, IL 60607
(312) 243-5900

In the Estate of Sylville K. Smith vs City of Milwaukee, et al.

2:17 cv 862-LA

Transcript of the Testimony of:

FMR. POLICE CHIEF EDWARD FLYNN

October 18, 2018



IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

The ESTATE of SYLVILLE K. SMITH,
by Personal Representative Mildred
Haynes, Patrick Smith, and Mildred
Haynes, on her own behalf,

Plaintiffs,

vs.

Case No. 2:17 cv 862-LA

CITY OF MILWAUKEE, WISCONSIN
AND DOMINIQUE HEAGGAN-BROWN,

Defendants.

Video Deposition of FMR. POLICE CHIEF EDWARD FLYNN

Thursday, October 18th, 2018

10:45 a.m.

at

MILWAUKEE CITY ATTORNEY'S OFFICE
841 North Broadway, Seventh Floor
Milwaukee, Wisconsin

Reported by Kealoha A. Schupp, RPR

Video deposition of FMR. POLICE CHIEF

EDWARD FLYNN, a witness in the above-entitled action, taken at the instance of the Plaintiffs, pursuant to the Federal Rules of Civil Procedure, pursuant to notice, before Kealoha A. Schupp, RPR and Notary Public, State of Wisconsin, at MILWAUKEE CITY ATTORNEY'S OFFICE, 841 North Broadway, Seventh Floor, Milwaukee, Wisconsin, on the 18th day of October, 2018, commencing at 10:45 a.m. and concluding at 3:51 p.m.

A P P E A R A N C E S:

LOEVY & LOEVY, by
Mr. David B. Owens
Ms. Danielle Hamilton
311 North Aberdeen Street, Third Floor
Chicago, Illinois 60607
Appeared on behalf of Plaintiffs.

MILWAUKEE CITY ATTORNEY'S OFFICE, by
Ms. Naomi E. Gehling
841 North Broadway, Seventh Floor
Milwaukee, Wisconsin 53202
Appeared on behalf of Defendants.

ALSO PRESENT: Timothy D'Agostino -- Videographer

** I N D E X **

E X A M I N A T I O N

BY MR. OWENS..... 5

E X H I B I T S

EXHIBIT NO.	PAGE	IDENTIFIED
-------------	------	------------

Exh. 1	Critical Incident PowerPoint Printout	15
--------	---------------------------------------	----

Exh. 2 Sustained Use of Force Allegations Report 52

Exh. 3	Early Intervention Performance & Benchmark Changes	76
--------	---	----

Exh. 4 Use of Force Outliers List 82

Exh. 5 11/22/15 Memorandum 86

Exh. 6 2/2/16 Memorandum 86

Exh. 7 Psychological Exam Report 116

Exh. 8	Employee Case File History	123
--------	----------------------------	-----

Exh. 9	8/11/16 Memorandum	139
--------	--------------------	-----

Exh. 10	Use of Force SOP	148
---------	------------------	-----

Exh. 11 5/1/18 Letter from Chief Morales 149

Exh. 12 E-Mail Chain Re: Collaborative Reform Report 168

Exh. 13 Citizen Complaint Summary 187

(Original exhibits retained by court reporter and
attached to original transcript. Copies provided
with additional transcripts.)

R E Q U E S T S

ITEM REQUESTED	PAGE
----------------	------

(None.)

1 TRANSCRIPT OF PROCEEDINGS

2 THE VIDEOGRAPHER: Good morning. We are
3 on the record.

4 This is the videotape deposition of
5 Former Police Chief Edward Flynn in the matter
6 of -- in the Estate of Sylville K. Smith versus
7 City of Milwaukee, et al, Case Number
8 2:17-cv-862-LA.

9 This deposition is taking place at
10 841 North Broadway, Room 716, Milwaukee,
11 Wisconsin, on October 18th, 2018, at 10:45 a.m.

12 My name is Tim D'Agostino. I'm the
13 videographer with U.S. Legal Support located at
14 411 East Wisconsin Avenue in Milwaukee, Wisconsin.

15 Video and audio recording will be
16 taking place unless all counsel have agreed to go
17 off the record.

18 Will counsel state their
19 appearances for the record and who they represent,
20 starting with the plaintiff, and then the court
21 reporter will swear in the witness.

22 MR. OWENS: This is David B. Owens on
23 behalf of the plaintiff.

24 MS. HAMILTON: Danielle Hamilton on
25 behalf of the plaintiffs.

1 MS. GEHLING: Naomi Gehling on behalf of
2 all defendants.

3 EDWARD FLYNN, called as a witness
4 herein, having been first duly sworn on oath, was
5 examined and testified as follows:

6 EXAMINATION

7 BY MR. OWENS:

8 Q Sir, could you please state and spell your name
9 for the record.

10 A Edward Flynn, F-L-Y-N-N.

11 Q And you were formerly the police chief of the
12 Milwaukee Police Department. Correct?

13 A That's correct.

14 Q How long were you the chief of police for the
15 Milwaukee Police Department?

16 A Ten years.

17 Q And can you -- do you know roughly when you began
18 and when you concluded?

19 A First week in January of 2008, and the -- I guess
20 the last week of February in -- this year.

21 Q 2018?

22 A That's correct.

23 Q Why did you stop being the chief of police for the
24 Milwaukee Police Department?

25 A Well, I'd been in public service for 47 years. I

1 MR. OWENS: Just take a short break. I
2 need to use the bathroom.

3 Can we go off the record?

4 THE VIDEOGRAPHER: We're going off the
5 record at 12:10 p.m.

6 (A recess was taken.)

7 THE VIDEOGRAPHER: We're back on the
8 record at 12:18 p.m.

9 MR. OWENS: So I'd like to mark this
10 Exhibit No. 3, please.

11 (Exhibit 3 marked for identification.)

12 BY MR. OWENS:

13 Q So, sir, I've identified Exhibit No. 3 here, which
14 is the sort of performance indicators and then
15 benchmarks.

16 Do you see that for -- as it
17 relates to the early intervention program?

18 A Yes.

19 Q Okay. So we've got -- and I think -- I just want
20 to clarify some of your prior testimony.

21 These are the types of indicators
22 you were looking at for early intervention and the
23 benchmarks for each one. Is that right?

24 A That's correct.

25 Q And does -- so as it relates to uses of force,

1 The overall picture here, you would
2 agree with me, is that -- somebody who is not
3 exercising good judgment, correct?

4 A At the very least, yep.

5 Q And does that color or should it color the
6 evaluation of the officer's ability to be on the
7 street and have the responsibility and opportunity
8 to use force?

9 A Well, we can only, you know, respond to the facts
10 that we know.

11 Obviously we uncovered a pattern of
12 behavior, subsequent to the investigation of the
13 criminal allegation made against him, that
14 revealed a pattern of activity that was, at the
15 very least, poor judgment, but certainly criminal
16 that was not known to us.

17 We were in the situation, and are
18 with any individual, that we are required to make
19 determinations based on the evidence available to
20 us regarding specific circumstances, events,
21 and/or complaints.

22 And the fact that there are other
23 similar circumstances, if found to be within
24 policy, the fact that there are a lot of them
25 doesn't immediately mean, well, you must be wrong